

exchange service shall provide 1+intra-LATA toll dialing parity within the service area that is subject to the waiver.

Sec. 312b. (1) Except as otherwise provided in subsection (2) OR (3), a provider of basic local exchange service shall provide 1+intra-LATA toll dialing parity and shall provide inter-LATA toll service to an equal percentage of customers within the same service exchange on the following dates:

- (a) To 10% of the customers by January 1, 1996.
- (b) To 20% of the customers by February 1, 1996.
- (c) To 30% of the customers by March 1, 1996.
- (d) To 40% of the customers by April 1, 1996.
- (e) To 50% of the customers by May 1, 1996.

(2) If the inter-LATA prohibitions are removed, the commission shall immediately order the providers of basic local exchange service to provide 1+intra-LATA toll dialing parity.

(3) Except for subsection(1)(A), subsection(1) does not apply to the extent that a provider is prohibited by law from providing either 1+intra-LATA toll dialing parity or inter-LATA toll service as provided under subsection(1).

(4) Except as otherwise provided by this section, this section does not alter or void any orders of the commission regarding 1+intra-LATA toll dialing parity issued on or before June 1, 1995.

(5) The commission shall immediately take the necessary actions to receive the federal waivers needed to implement this section.

(6) This section does not apply to a provider of basic local exchange service with less than 250,000 access lines.

#### D. DISCONTINUANCE OF SERVICE

Sec. 313 (1) A telecommunication provider that provides either basic local exchange or toll service, or both, may not discontinue either service to an exchange unless 1 or more alternative telecommunication providers are furnishing the same telecommunication service to the customers in the exchange.

(2) A telecommunication provider proposing to discontinue a regulated service shall file a notice of the discontinuance of service with the commission, publish the notice in a newspaper of general circulation within the exchange, and provide other reasonable notice as required by the commission.

(3) Within 30 days after the date of publication of the notice required by subsection (2), a person or other telecommunication provider affected by a discontinuance of services by a telecommunication provider may apply to the commission to determine if the discontinuance is authorized pursuant to this act.

Sec. 314. (1) A provider of a regulated service shall not discontinue the regulated service for failure by a customer to pay a rate or charge

imposed for an unregulated service. For purposes of this section, the commission may determine how payments are allocated between regulated and unregulated services.

(2) The commission shall determine when and under what conditions a provider of basic local exchange service may discontinue service under this section.

#### E. SERVICES FOR THE HEARING IMPAIRED

Sec. 315. (1) The commission shall require each provider of basic local exchange service to provide a text telephone-telecommunications device for the deaf at costs to each individual who is certified as deaf or severely hearing-or speech-impaired by a licensed physician, audiologist, or qualified state agency, and to each public safety answering point as defined in section 102 of the emergency telephone service enabling act, Act No. 32 of the Public Acts of 1986, being section 484.1102 of the Michigan Compiled Laws.

(2) The commission shall require each provider of basic local exchange service to provide a telecommunications relay service whereby persons using a text telephone-telecommunications device for the deaf can communicate with persons using a voice telephone through the use of third party intervention or automatic translation. Each provider of basic local exchange service shall determine whether to provide a telecommunications relay service on its own, jointly with other basic local exchange providers, or by contract with other telecommunication providers. The commission shall determine the technical standards and essential features of text telephone and telecommunications relay service to ensure their compatibility and reliability.

(3) The commission shall appoint a 3-person advisory board consisting of a representative of the deaf community, the commission staff, and providers of basic local exchange service to assist in administering this section. The advisory board shall hold meetings, open to the public, at least once each 3 months, shall periodically seek input on the administration of this section from members of the deaf, hearing, or speech impaired community, and shall report to the commission at least annually. The advisory board shall investigate and make recommendations on the feasibility of hiring a reasonably prudent number of people from the deaf or hearing impaired and speech impaired community to work in the provision of telecommunication relay service.

(4) Rates and charges for calls placed through a telecommunication relay service shall not exceed the rates and charges for calls placed directly from the same originating location to the same terminating location. Unless ordered by the commission, a provider of a telecommunications relay service shall not be required to handle calls from public telephones except for calls charged collect, cash, to a credit card, or third party number.

(5) Notwithstanding any other provision of this act, a provider may offer discounts on toll calls where a text telephone-telecommunications device for the deaf is used. The commission shall not prohibit such discounts on toll calls placed through a telecommunication relay service.

(6) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section and may waive the costs assessed under this section to individuals who are deaf or severely hearing impaired or speech impaired.

#### F. LIFELINE SERVICES

Sec 316. (1) The commission shall require each provider of residential basic local exchange service to offer certain low income customers

the availability of basic local exchange service at a rate below the regulated rate.

(2) The basic local exchange rate for low income customers, except as provide in subsection (3), shall be 20% or \$4.00 which shall be inclusive of any federal contribution, whichever is greater, below the regulated rate. To qualify for the reduced rate under this subsection the person's annual income shall not exceed 150% of the federal poverty income standards as determined by the United States office of management and budget and as approved by the state treasurer.

(3) The basic local exchange rate for low income customers 65 years of age or more shall be 25% or \$4.00 which shall be inclusive of any federal contribution, whichever is greater, below the regulated rate.

(4) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section.

(5) The commission shall take necessary action to notify the general public of the availability of lifeline services including, but not limited to, public service announcements, newspaper notices, and such other notice reasonably calculated to reach those who may benefit from the services.

#### G. OPERATOR SERVICE PROVIDERS

Sec. 317. (1) The commission shall adopt operating requirements for operator service providers. The requirements shall include the following:

(a) That an OSP shall furnish each entity with which the OSP contracts to provide operator service a sticker, card, or other form of information for each telephone that has access to the operator service. The information shall include the name of the operator service provider, a toll-free customer service telephone number, and a statement that charges imposed by the operator service provider may be obtained by calling the toll-free telephone number. The operator service provider shall require by contract that the entity receiving the information display the information on or near each of the telephones that has access to the service.

(b) Prior to the connection of each call, the operator service provider shall do all of the following:

(i) Announce the operator service provider's name.

(ii) Quote, at the caller's request and without charge, the rate and any other fees or surcharges applicable to the call charged by the operator service provider.

(c) Allow a caller to choose the carrier of his or her choice by doing either of the following:

(i) After informing the caller that the rates for the call may not reflect the rates for a call from the location of the caller and receiving the caller's consent, transfer the caller to the carrier of his or her choice without charge.

(ii) Instruct the caller how to reach his or her carrier of choice by dialing the carrier's 950, 1-800, or 10-xxx access service method.

(d) Allow callers to the operator service provider to reach emergency services without charge.

(2) An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

(a) The name of the provider.

(b) The address of the provider's principal office.

(c) If the provider is not located in this state, the address of the registered office and the name of the registered agent authorized to receive service of process in this state.

(d) Any other information that the commission may require.

(3) The registration shall be accompanied with a registration fee of \$100.00.

(4) The registration is effective immediately upon filing with the commission and the payment of the registration fee and shall remain in effect for 1 year from its effective date.

(5) A registration may be renewed for 1 year by filing with the commission a renewal registration on a form provided by the commission and the payment of a renewal fee of \$100.00.

(6) Except as otherwise authorized by the commission, a provider under this section shall not charge a rate for operator services or toll service that is greater than 300% of the state average rate for operator or toll service by providers of regulated toll service.

(7) A provider shall not discontinue basic local exchange service for failure by a person to pay an OSP charge.

(8) In addition to any other penalty under this act, a person who is charged for the use of an operator service provider or is denied access to emergency services in violation of this section may bring a civil action against the OSP to recover actual damages or \$250.00, whichever is greater, plus all reasonable attorney fees.

#### H. PAYPHONE SERVICES

Sec. 318. (1) A provider of basic local exchange service shall not discriminate in favor of its or an affiliate's payphone service over similar services offered by another provider.

(2) A provider of payphone service shall comply with all nonstructural safeguards adopted by the federal communications commission for payphone service.

Sec. 319. (1) The commission shall determine the rate that a provider of toll service is to compensate a provider of payphone service for calls made on a payphone of the provider that utilizes the toll service and avoids customer direct compensation to the provider of the payphone service.

(2) The rate of compensation determined under subsection (1) shall be

based on a per-call basis and shall be at the total service long run incremental cost of providing the payphone service.

(3) Until a determination can be made under subsection (1), the toll service provider shall compensate the provider of the payphone service on a per-call basis at a rate of .25 cents for each call.

(4) A provider of payphone service with less than 10,000 payphones may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 10,000 payphones.

(5) A provider of payphone service shall not receive compensation under this section unless the provider has registered under section 320.

Sec. 320. (1) A person shall not provide payphone service in this state without first registering with the commission. The registration shall include all of the following information:

(a) The name of the provider.

(b) The address and telephone number of the provider's principal office.

(c) If the provider is not located in this state, the address and telephone number of the registered office and the name and telephone number of the registered agent authorized to receive service of process in this state.

(d) The specific location of each payphone in this state owned or operated by the provider. Information required under this subdivision shall be made available to the local unit of government solely for the enforcement of the reporting, repairing, and replacement standards under subsection (8). The information required to be provided under this subsection shall be considered commercial information under section 210, and the information submitted shall be exempt from the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Registration shall be accompanied by a registration fee of \$100.00.

(3) The registration is effective immediately upon filing with the commission and the payment of the registration fee and shall remain in effect for 1 year from its effective date.

(4) A registration may be renewed for 1 year by filing with the commission a renewal registration on a form provided by the commission and the payment of a renewal fee of \$100.00.

(5) The commission shall establish a toll-free number that can be dialed to report to the commission a payphone that is inoperative. The toll-free number shall be conspicuously displayed by the provider on or near each payphone.

(6) If the commission receives a report pursuant to subsection (5), it shall immediately notify the provider of the inoperative payphone.

(7) After consulting with providers of payphone service, local units of government, and other interested parties, the commission shall promulgate rules or issue orders under section 213 to establish and enforce quality standards in the providing of payphone service.

(8) Except as provided in subsection (9), a local unit of government shall not regulate payphone service.

(9) A local unit of government may enforce the reporting, repairing, and replacement of inoperative payphones within its jurisdiction by adopting an ordinance that conforms to the standards established by the commission under subsection (7). A local unit of government shall not impose standards greater than those established by the commission.

#### I. REGULATED RATES

Sec. 321. Except as otherwise provided under section 304a, a provider of a regulated telecommunication service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service.

#### ARTICLE 3A

##### INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC LOCAL EXCHANGE SERVICE

Sec. 351. Until January 1, 2000 and except for section 361, this article does not apply to providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state on January 1, 1996.

Sec. 352. (1) Until January 1, 1997, the rates of a provider of basic local exchange service for interconnection under this article shall be at the provider's total service long run incremental cost of providing the service. After January 1, 1997, the rate for interconnection shall be just and reasonable as determined by the commission.

(2) The rates for unbundled loops, number portability, and the termination of local traffic shall be at the rates established under commission case U-10647 and shall remain in effect until new total service long run incremental cost studies for such services have been approved by the commission.

Sec. 353. The commission shall issue a report and make recommendations to the legislature and governor on or before January 1, 1998, involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service.

#### A. JOINT MARKETING

Sec. 354. (1) Except as otherwise provided in subsection (2), until inter-LATA prohibitions are removed for providers of basic local exchange service, a provider of basic local exchange service shall not do any of the following:

(a) Jointly market or offer as a package a basic local exchange service together with an inter-LATA toll service or condition a rate for basic local exchange service on the customer also ordering an inter-LATA toll service.

(b) Discriminate against providers of toll service by not making available customer names and addresses that are available to an affiliate of the basic local exchange provider.

(2) Subsection (1)(A) does not apply to a Michigan facility based provider or to the extent that a provider is providing 1+ intra-LATA toll dialing parity under section 312b.

#### B. SERVICE UNBUNDLING

Sec. 355. (1) On or before January 1, 1996, a provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

(2) Unbundled services and points of interconnection shall include at a minimum the loop and the switch port.

Sec. 356. A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Providers may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection.

#### C. RESALE OF LOCAL EXCHANGE SERVICE

Sec. 357. (1) A provider of local exchange service shall make available for resale on nondiscriminatory terms and conditions all basic local exchange services that on January 1, 1996 it is offering to its retail customers. Resale shall be provided on a wholesale basis.

(2) Except for restrictions on resale, a provider of local exchange service may include in its wholesale tariffs any use or class of customer restrictions it includes in its retail tariffs.

(3) A provider of local exchange service is not required to offer for resale either of the following:

(a) A package of services where basic local exchange service is jointly marketed or combined with other services, or for any promotional or discounted offering of basic local exchange service.

(b) Services for which the provider does not have existing facilities in place to service the intended end user, or any service offered for the first time subsequent to March 1, 1996.

(4) No later than January 1, 1996, each provider of local exchange service shall file tariffs with the commission which set forth the wholesale rates, terms, and conditions for basic local exchange services. The wholesale rates shall be set at levels no greater than the provider's current retail rates less the provider's avoided costs.

(5) After January 1, 2000, wholesale rates shall not be less than the provider's total service long run incremental cost of the services.

#### D. NUMBER PORTABILITY

Sec. 358. (1) As used in this section, "number portability" means the capability for a local exchange customer at a particular location to change providers of basic local exchange service without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer could obtain by changing telephone numbers.

(2) No later than January 1, 1999, a provider of basic local exchange service shall provide number portability.

(3) If the commission determines that it is economically and technologically feasible to provide number portability before the date required under subsection (2), the commission shall order providers of basic local exchange service to provide the service before that date.

(4) Until number portability is available, a provider of basic local exchange service shall make available to other providers direct inward dialing and remote call forwarding.

#### E. TERMINATION RATES

Sec. 359. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement for the exchange of local traffic on other terms and conditions. Any compensation arrangements agreed to between providers under this subsection shall be available to other providers with the same terms and conditions on a nondiscriminatory basis.

#### F. DIRECTORY ASSISTANCE

Sec. 360. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate to other providers of basic local exchange service for providing directory assistance.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of providing directory assistance on other term and conditions.

#### G. ATTACHMENT RATES

Sec. 361. (1) As used in this section:

(a) "Attachment" means any wire, cable, facility, or other apparatus installed upon any pole or in any duct or conduit, owned or controlled, in whole or in part, by a provider.

(b) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable grade clearance and includes the space which separates telecommunication and power lines.

(2) A provider shall establish the rates, terms, and conditions for attachments by another provider or cable service.

(3) The rates, terms, and conditions shall be just and reasonable. A rate shall be just and reasonable if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an



amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capital costs of the provider attributable to the entire pole, duct, or right-of-way.

(4) An attaching provider or cable service shall obtain any necessary authorization before occupying public ways or private rights-of-way with its attachment.

(5) A public utility that directly provides a regulated telecommunication service or cable service shall establish the rates, terms, and conditions for attachments as provided under this section.

(6) This section shall not be construed to limit the commission's authority to regulate the rates, terms, and conditions of attachments upon poles or in ducts or conduits owned or controlled by utilities engaged in the transmission of electricity for light, heat, or power.

#### H. IMPUTATION

Sec. 362. (1) The rate of a provider of local exchange services is subject to subsection (2) if all of the following apply:

(a) The provider has a service that competes with a service of another provider.

(b) The other provider utilizes a service, including any unbundled service element or basic network component, from the provider of local exchange service that is not available within the relevant market or geographic area from any other provider of local exchange service.

(c) The provider of local exchange service uses that same noncompetitive service or its functional equivalent.

(2) The rate of a telecommunication service shall exceed the sum of both of the following:

(a) The tariffed rates, including access, carrier common line, residual interconnection, and similar charges, for the noncompetitive service or its functional equivalent that is actually used by the provider of local exchange service, as those rates would be charged a customer for the use of that service.

(b) The total service long run incremental costs of the other components of the provider of local exchange service.

#### I. CUSTOMER DATA BASE

Sec. 363. Providers of basic local exchange service shall allow access by other providers, on a nondiscriminatory basis and in a timely and accurate manner, to data bases, including, but not limited to, the line information data base (LIDB), the 800 data base, and other information necessary to complete a call within the exchange, either on terms and conditions as the providers may agree or as otherwise ordered by the commission.

#### ARTICLE 4

##### UNREGULATED SERVICES

Sec. 401. (1) Except as otherwise provided by law or preempted by

federal law, the commission shall not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education the reselling of centrex or its equivalent, payphone services, and the reselling of an unlicensed telecommunication service. The foregoing services shall not be considered part of basic local exchange service.

(2) Except as otherwise provided by this act, the commission shall not have the authority over a telecommunication service not specifically provided for in this act.

Sec. 402. (1) A provider of an unregulated service may file with the commission a tariff which shall contain the information the provider determines to be appropriate regarding the offered service.

(2) The commission shall retain a tariff field under this section and make all information contained in the tariff available to the public.

Sec. 403. A provider of unregulated telecommunication services shall not at any time refuse, charge, delay, or impair the speed of the connecting of a person to a telecommunication emergency service.

## ARTICLE 5

### PROHIBITED ACTIVITY

Sec. 502. A provider of a telecommunication service shall not do any of the following:

(a) Make a statement or representation, including the omission of material information, regarding the rates, terms, or conditions of providing a telecommunication service that is false, misleading, or deceptive.

(b) Charge an end-user for a subscribed service that the end-user did not make an initial affirmative order. Failure to refuse an offered or proposed subscribed service is not an affirmative order for the service.

(c) If an end-user has canceled a service, charge the end-user for service provided after the effective date the service was canceled.

(d) If a residential end-user has orally ordered a service, fail to confirm the order in writing within 15 days after the service is ordered.

(e) State to an end-user that their basic local exchange service or other regulated service will be discontinued unless the end-user pays a charge that is due for an unregulated service.

Sec. 503. (1) The commission shall promulgate rules under section 213 that establish privacy guidelines in the providing of telecommunication services.

(2) The rules promulgated under this section shall include, but need not be limited to, protections against the releasing of certain customer information and customer privacy intrusions.

(3) A person who obtains an unpublished telephone number using a telephone caller identification service shall not do any of the following without the written consent of the customer of the unpublished telephone number:

(a) Disclose the unpublished telephone number to another person for commercial gain.

(b) Use the unpublished telephone number to solicit business.

(c) Intentionally disclose the unpublished telephone number through a computer data base, on-line bulletin board, or other similar mechanism.

Sec. 504. Each regulated telecommunications provider shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan within 60 days of the effective date of this act. Competing telecommunication providers shall file such a plan with the commission with their application for license. Such plan shall contain such entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses.

#### ARTICLE 6

##### PENALTIES, REPEALS, AND EFFECTIVE DATES

Sec. 601. If after notice and hearing the commission finds a person has violated this act, the commission shall order remedies and penalties to protect and make whole ratepayers and other persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Except as provided in subdivision (b), the person to pay a fine for the first offense of not less than \$1,000.00 nor more than \$20,000.00 per day that the person is in violation of this act, and for each subsequent offense, a fine of not less than \$2,000.00 nor more than \$40,000.00 per day.

(b) If the provider has less than 250,000 access lines, the provider to pay a fine for the first offense of not less than \$200.00 or more than \$500.00 per day that the provider is in violation of this act, and for each subsequent offense a fine of not less than \$500.00 or more than \$1,000.00 per day.

(c) A refund to ratepayers of the provider of any collected excessive rates.

(d) If the person is a licensee under this act, that the person's license is revoked.

(e) Cease and desist orders.

Sec. 602. The commission shall assure that none of the amounts paid pursuant to section 601 or any other related defense costs are passed through to the provider's customers in any manner.

Sec. 603. The following acts and parts of acts are repealed:

| <u>Year</u><br><u>of Act</u> | <u>Public Act</u><br><u>Number</u> | <u>Section</u><br><u>Numbers</u> | <u>Compiled Law</u><br><u>Sections (1979)</u> |
|------------------------------|------------------------------------|----------------------------------|---|
|------------------------------|------------------------------------|----------------------------------|---|

|      |     |          |                     |
|------|-----|----------|---------------------|
| 1883 | 72  |          | 484.51              |
| 1913 | 206 | 1 to 3f  | 484.101 to 484.103f |
|      |     | 4 to 11a | 484.104 to 484.111a |
|      |     | 12 to 14 | 484.112 to 484.114  |
|      |     | 19 to 24 | 484.119 to 484.124  |
|      |     | 26       | 484.126             |
| 1913 | 383 |          | 469.491 to 469.493  |

Sec. 604. (1) This act is repealed effective January 1, 2001.

(2) Section 312b of Act No. 179 of the Public Acts of 1991, being section 484.2312b of the Michigan Compiled Laws, is repealed effective July 1, 1997.

(3) Sections 206, 207a, 212, 307a, 501, and 605 of Act No. 179 of the Public Acts of 1991, being sections 484.2206, 484.2207a, 484.2212, 484.2307a, 484.2501, and 484.2605 of the Michigan Compiled Laws, are repealed.

(4) Section 3g of Act No. 206 of the Public Acts of 1913, being section 484.103g of the Michigan Compiled Laws, is repealed.



STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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|                                       |   |                  |
|---------------------------------------|---|------------------|
| In the matter of the application of   | ) |                  |
| AMERITECH MICHIGAN for approval of    | ) |                  |
| new TSLRIC studies for interim number | ) | Case No. U-11155 |
| portability.                          | ) |                  |
| _____                                 | ) |                  |

|  |   |                  |
|--|---|------------------|
| In the matter of the application of    | ) |                  |
| AMERITECH MICHIGAN for approval of     | ) |                  |
| new TSLRIC studies for unbundled loops | ) | Case No. U-11156 |
| and local traffic termination.         | ) |                  |
| _____                                  | ) |                  |

At the December 12, 1996 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. John G. Strand, Chairman  
Hon. John C. Shea, Commissioner  
Hon. David A. Svanda, Commissioner

**ORDER**

In its June 5, 1996 order in Case No. U-10860, the Commission ordered Ameritech Michigan to file new total service long run incremental cost (TSLRIC) studies and tariffs for unbundled loops, number portability, and local call termination. In addition, the Commission ordered Ameritech Michigan to file a tariff and supporting cost study for the provision of unbundled ports as defined in 1991 PA 179, as amended by 1995 PA 216 (the Act), MCL 484.2101 et seq.; MSA 22.1469(101) et seq.

On August 5, 1996, Ameritech Michigan filed an application for approval of a new TSLRIC study and a tariff for interim number portability, Case No. U-11155, and an application for approval of new TSLRIC studies and tariffs for unbundled loops and local call termination, Case No. U-11156. If approved, the applications would have resulted in rate revisions for those services. In addition, on July 5, 1996, Ameritech Michigan submitted Advice No. 2438A to establish a rate for unbundled ports.<sup>1</sup>

On September 12, 1996, the Commission issued an order finding that the cost studies submitted by Ameritech Michigan on August 5, 1996 were not consistent with guidelines established in the Commission's September 8, 1994 order in Case No. U-10620, among other things. As pointed out by the Commission, Case No. U-10620 required all cost studies of a service provider like Ameritech Michigan to incorporate the same total cost of each network element used in the provision of a particular service. Ameritech had abandoned this requirement by varying the assumptions used to develop annual cost factors<sup>2</sup> to correspond with the perceived competitiveness of the service being studied. According to the Commission, that change in approach was so significant that an adequate review of Ameritech Michigan's studies would not be possible until the company submitted a corrected version. September 12, 1996 order in

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<sup>1</sup>Until January 1, 1997, the Act requires that rates for unbundled loops and ports, number portability, and local call termination be set at the TSLRIC of providing those services. MCL 484.2352; MSA 22.1469(352) and MCL 484.2359; MSA 22.1469(359). Until the Commission approves new cost studies for unbundled loops, number portability, and local call termination, the rates for those services set in the Commission's February 23, 1995 order in Case No. U-10647 remain in effect. *Id.* Because a rate for unbundled ports was not set in Case No. U-10647, Ameritech Michigan could file and use a tariff (with supporting cost data) that is consistent with the law.

<sup>2</sup>Annual cost factors include items like the cost of capital, depreciation, and the fill factor (the expected percentage of facility usage), all of which may affect the computation of cost for a given network element.

Cases Nos. U-10860, U-11155, and U-11156, p. 3. The Commission therefore ordered Ameritech Michigan to refile its TSLRIC studies once they were reformulated to comply with the Commission's order in Case No. U-10620.

On September 26, 1996, Ameritech Michigan filed amended applications in Cases Nos. U-11155 and U-11156, as well as revised Advice No. 2438B, in which the company submitted its reformulated cost studies. Following a review of those cost studies conducted pursuant to a protective order, responses to the amended applications were filed on November 12, 1996 by AT&T Communications of Michigan, Inc. (AT&T), MCI Telecommunications Corporation (MCI), the Michigan Cable Telecommunications Association (MCTA), Attorney General Frank J. Kelley (Attorney General), and the Commission Staff (Staff). Reply comments were filed on November 19, 1996 by Ameritech Michigan, AT&T, MCI, the MCTA, and the Attorney General.

In preparing these new studies, Ameritech Michigan asserts that it changed its cost of capital and depreciation life assumptions to correspond with those currently used in the TSLRIC studies for its retail services. The company goes on to note that it did not change the fill factor assumptions initially proposed in the present cases. Instead, it revised the fill factor assumptions in the TSLRIC studies of its retail services. According to Ameritech Michigan, it makes no difference which set of assumptions is altered so long as the Commission's request for consistency is satisfied. Moreover, Ameritech Michigan argues that the revision of its retail service fill factors is supported by the Federal Communications Commission's (FCC) August 8, 1996 order in Docket No. 96-98, where it was suggested that telecommunications providers need only use reasonably



accurate fill factors when computing the total element long run incremental cost that the FCC uses to review the reasonableness of unbundled rates.

AT&T contends that Ameritech Michigan's most recent filing is incomplete and inconsistent with information provided by the company in other proceedings, including Case No. U-11148 (an Ameritech Michigan rate restructuring case). It also contends that Ameritech Michigan has again provided inadequate support for its cost study assumptions and results. AT&T therefore urges that the company be required to undertake a comprehensive study covering the cost of all network components. According to AT&T, the resulting "consistently studied collection of network component costs could then be used to develop the cost of individual offerings (whether they be retail services or unbundled network components) by assembling the components required to provide the specific offering or service." AT&T's comments, p. 2.

Likewise, the Attorney General claims that Ameritech Michigan's revised cost studies continue to be plagued by significant problems, such as the "absence of critical supporting documentation" regarding computation of the company's cost of capital and depreciation rates, as well as its treatment of shared and common costs. Attorney General's comments, p. 4. He therefore contends that Ameritech Michigan's amended applications should be rejected and that the company should be instructed to file fully supported, revised cost studies in a new docket. In the interim, the Attorney General suggests that the Commission set rates for Ameritech Michigan at the lower of (1) those established by the arbitration panel in Case No. U-11138 [an arbitration case involving Ameritech Michigan and TCG Detroit], (2) the proxy rates computed pursuant to the FCC's August 8, 1996 order in Docket No. 96-98, plus or minus 10%, or

(3) the rates developed by the company's most recent TSLRIC study less all shared and common costs.

MCI contends that, although they represent an improvement over the company's previous cost analyses, the TSLRIC studies included in Ameritech Michigan's amended applications "are still inflated significantly." MCI's comments, p. 16. In support of its contention, MCI asserts that these studies overallocate shared, joint, and common costs to Ameritech Michigan's basic unbundled loops. It further claims that costs for the company's nonrecurring charges are not least-cost and do not reflect forward-looking technologies. For these and other reasons, MCI requests that the Commission reject Ameritech Michigan's revised TSLRIC studies.

Similarly, the MCTA asserts that the information submitted in support of Ameritech Michigan's cost studies was incomplete and insufficient to compute accurately the unbundled costs covered by the amended applications in Cases Nos. U-11155 and U-11156. According to the MCTA, these TSLRIC studies still do not fully comport with the Commission's requirements regarding submission of a cost study, particularly with regard to the computation of shared and common costs. The MCTA further claims that the company's studies continue to overstate Ameritech Michigan's cost of capital and understate the depreciable lives of its digital switches, digital circuit equipment, and several types of cable. It therefore contends that the Commission should reject these TSLRIC studies and, among other things, set interim rates for number portability at 10¢ per remote line.

Although it accepts two of the changes reflected in Ameritech Michigan's most recent filing, the Staff disagrees with the company's proposed computation of the fill factors. Specifically, the Staff asserts that insufficient information was offered to support a change in the fill factors

applied to Ameritech Michigan's retail services. The Staff further contends that fill factors based on actual results or used to reflect stranded investment are not forward-looking, as required by the Act and prior Commission orders. Moreover, the Staff notes that vastly different loop costs and prices have been requested (and, in some cases, approved for use) by Ameritech Michigan in the following proceedings over the last two years: Case No. U-11156 (the present case); Case No. U-10647 (the City Signal, Inc., interconnection case); Case No. U-11178 (the interconnection case involving Brooks Fiber Communications of Michigan, Inc.); Cases Nos. U-11151, U-11152, and U-11168 (the AT&T and MCI arbitration cases); and Cases Nos. U-11104, U-11203, and U-11224 (the competitive checklist compliance case, the Sprint Communications Company L.P. arbitration case, and Ameritech Michigan's unbundled network elements and interconnection services case, respectively). These differences have arisen despite the fact that, in each case, Ameritech Michigan claimed that the prices and costs were based on the application of TSLRIC principles.

The Staff suggests a two-step approach to remedying these problems. First, it recommends that the Commission initiate a proceeding to study the TSLRICs associated with each of Ameritech Michigan's unbundled network elements, interconnection services, and resold services. When completed, that proceeding would result in a set of TSLRIC values that would supplant existing tariff and interconnection bases for pricing. Second, the Staff recommends that interim rates should be established for use until completion of that proceeding. Moreover, the Staff contends that those interim rates should be based on the most recent TSLRIC studies submitted in Cases Nos. U-11155 and U-11156. Despite their flaws, the Staff asserts that these cost

studies more closely follow the TSLRIC methods required by the Act and past Commission orders than any others submitted by Ameritech Michigan over the last two years.

The Commission concludes that the Staff's recommendations should be adopted. As noted above, Ameritech Michigan's filings over the past few years have led to a plethora of TSLRIC studies and rate proposals, many with differing results. For that reason, the Commission today issued an order in Cases Nos. U-11280 and U-11281 establishing the proceeding described in the Staff's first recommendation.

With regard to the second recommendation, the Commission finds that interim rates should be established in order to avoid further delaying the extension of competitive options to customers in Ameritech Michigan's service territory. Moreover, it agrees with the Staff that the most appropriate basis for those rates is the TSLRIC study submitted in conjunction with the amended applications in Cases Nos. U-11155 and U-11156. Although flaws still exist, the studies now at issue in these cases more closely correspond to the methodology required by the Act and prior Commission orders than those submitted previously.

Finally, in light of these decisions, the Commission concludes that the dockets in Cases Nos. U-11155 and U-11156 should be closed, and that all issues regarding TSLRIC studies and rates for Ameritech Michigan's unbundled loops, ports, interim number portability, and local call termination should be resolved in the context of the company's cost study and rate proceeding in Case No. U-11280.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.;

MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, 1992 AACs, R 460.17101 et seq.

b. The cost studies and rates submitted by Ameritech Michigan on September 26, 1996 in Cases Nos. U-11155 and U-11156, as well as in Advice No. 2438B, should be approved for use, on an interim basis, in establishing the prices for unbundled loops, ports, interim number portability, and local call termination.

c. Ameritech Michigan should be required to submit revised cost studies and rates, established consistent with the Commission's September 8, 1994 order in Case No. U-10620, its December 12, 1996 order in Case No. U-11103, and applicable law, as part of the cost study and rate proceeding in Case No. U-11280.

d. The dockets in Cases Nos. U-11155 and U-11156 should be closed.

**THEREFORE, IT IS ORDERED that:**

A. The cost studies and rates submitted by Ameritech Michigan on September 26, 1996 in Cases Nos. U-11155 and U-11156, as well as in Advice No. 2438B, are approved for use, on an interim basis, in establishing the prices for unbundled loops, ports, interim number portability, and local call termination on its system.

B. Ameritech Michigan shall submit cost studies and rates, established consistent with the Commission's September 8, 1994 order in Case No. U-10620, its December 12, 1996 order in Case No. U-11103, and applicable law, as part of the cost study and rate proceeding in Case No. U-11280.

C. The dockets in Cases Nos. U-11155 and U-11156 are closed.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand  
Chairman

( S E A L )

/s/ John C. Shea  
Commissioner

/s/ David A. Svanda  
Commissioner

By its action of December 12, 1996.

/s/ Dorothy Wideman  
Its Executive Secretary



STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,  
to consider the total service long run incremental  
costs and to determine the prices of unbundled  
network elements, interconnection services,  
resold services, and basic local exchange services  
for AMERITECH MICHIGAN.

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Case No. U-11280

In the matter, on the Commission's own motion,  
to consider the total service long run incremental  
costs and to determine the prices of unbundled  
network elements, interconnection services,  
resold services, and basic local exchange services  
for GTE NORTH INCORPORATED.

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Case No. U-11281

In the matter of the application of AMERITECH  
MICHIGAN for Commission approval of total  
service long run incremental costs (TSLRIC)  
and rates for unbundled network elements and  
interconnection services.

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Case No. U-11224

At the December 12, 1996 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. John G. Strand, Chairman  
Hon. John C. Shea, Commissioner  
Hon. David A. Svanda, Commissioner

**ORDER INITIATING PROCEEDINGS**

Ameritech Michigan and GTE North Incorporated (GTE) have each filed applications related to the pricing of unbundled network elements, interconnection services, and resold services, with cost studies to justify their proposed rates.



On June 5, 1996, the Commission issued an order in Case No. U-10860 requiring both Ameritech Michigan and GTE to file tariffs for unbundled ports, with supporting total service long run incremental cost (TSLRIC) studies, and tariffs for the resale of basic local exchange services that reflect wholesale rates as defined by Michigan law. Ameritech Michigan and GTE were also required to file, by August 5, 1996, new tariffs and TSLRIC studies for unbundled loops, interim number portability, and local traffic termination. On August 9, 1996, Ameritech Michigan filed an application in Case No. U-11148 proposing the restructuring of basic local exchange rates and services, with supporting TSLRIC studies for the proposed changes. On September 26, 1996, GTE filed an application in Case No. U-11207 for approval of tariffs and TSLRIC studies for unbundled loops, interim number portability, switching services, local traffic termination, and resold services.

On September 26, 1996, Ameritech Michigan filed amended applications in Cases Nos. U-11155 and U-11156 seeking Commission approval for new TSLRIC studies for interim number portability and unbundled loops and local traffic termination, respectively.<sup>1</sup> On October 18, 1996, Ameritech Michigan filed an application in Case No. U-11224 for Commission approval of its cost studies for unbundled network elements and interconnection services not already pending in Cases Nos. U-11155 and U-11156. Ameritech Michigan also sought approval of proposed rates for the interconnection services and unbundled network elements submitted with the application.

On September 18, 1996, Sprint Communications Company L.P. (Sprint) petitioned the Commission in Case No. U-11200 to initiate an investigation into Ameritech Michigan's costs

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<sup>1</sup>The original applications were filed on August 5, 1996 and rejected by the Commission on September 12, 1996.